

**APR 10 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GILBERT KEAHI SOUZA,

Defendant - Appellant.

No. 05-10554

D.C. No. CR-03-00253-DAE

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Hawaii  
David A. Ezra, District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Gilbert Keahi Souza appeals from the district court's judgment and 108-month sentence imposed following his guilty-plea conviction for possession with intent to distribute in excess of 5 grams of methamphetamine, in violation of 21

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 841(a)(1) and (b)(1)(B), and possession with intent to distribute in excess of 5 grams of cocaine base, in violation of 21 U.S.C. § 841(a) and (b)(1)(B).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Souza has filed a brief stating that there are no grounds for relief, and a motion to withdraw as counsel of record. Souza has not filed a pro se supplemental brief, and the government has not filed an answering brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988), and we dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily).

Counsel's motion to withdraw is **GRANTED**.

**DISMISSED.**